House amendments to Senate amendments to H.R. 22, Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act

FLOOR SITUATION

On Thursday, November 5, 2015, the House will complete consideration of the House amendments to the Senate amendments to H.R. 22, *the Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act,* under a rule. The Senate amended the text of the previously-passed House version of H.R. 22, *the Hire More Heroes Act of 2015*, by a vote of 65 to 34 on July 30, 2015. The House Committee on Transportation and Infrastructure ordered its surface transportation reauthorization bill, the *Surface Transportation Reauthorization and Reform Act of 2015* (H.R. 3763) reported by voice vote on October 22, 2015.

SUMMARY

The Rules Committee Print to H.R. 3763, *the Surface Transportation Reauthorization and Reform Act of 2015*, consists of the text of the bill as ordered reported by the Committee on Transportation and Infrastructure with several modifications, which can be found here. The bill reauthorizes federal highway, public transportation, and highway safety programs for six years and provides spending increases only necessary to cover projected inflation in the cost of existing surface transportation programs.

The Senate amendment to H.R. 22, *the Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act*, also reauthorizes surface transportation programs for six years, and includes provisions to extend current motor fuel taxes, transfer funds from Treasury's General Fund to the Highway Trust Fund (HTF), and increase other revenue to offset the costs of its authorizations. The bill provides for spending to rise faster that the projected rate of inflation on these programs.

The House is expected to consider the transportation provisions of the Rules Committee Print to H.R. 3763 and non-transportation provisions of the Senate amendment to H.R. 22. Therefore, this digest summarizes the transportation-related provisions of the Rules Committee Print to H.R. 3763 and certain non-transportation related provisions of the Senate amendment to H.R. 22, including its revenue provisions and language to reauthorize the Export-Import Bank.

H.R. 3763 (Rules Committee Print)

H.R. 3763 "authorizes federal surface transportation programs through fiscal year 2021 and makes reforms to laws governing highway project funding and construction, transit, highway safety, the operations of motor carriers, transportation research, and hazardous materials transportation."[1] According to the Committee, the bill is designed to refocus surface transportation programs on national priorities, accelerate project delivery, promote innovative financing, provide greater flexibility to states and local governments to better address their needs and priorities, improve safety, and expedite environmental reviews.[2]

Select provisions of H.R. 3763 include:

Title I – Federal-Aid Highways

Authorization: The bill authorizes funding for Federal-Aid Highway programs at: $38.4 billion in fiscal year 2016, $39.1 billion in fiscal year 2017, $39.9 billion in fiscal year 2018; $40.8 billion in fiscal year 2019; $41.6 billion in fiscal year 2020; and, $42.5 billion in fiscal year 2021. These funding levels are levels consistent with the Congressional Budget Office's (CBO) baseline projections for the Highway Trust Fund.[3] The bill also authorizes $200 million for each of fiscal years 2016 through 2021 for the Transportation Infrastructure Finance and Innovation Program and a total of $2.9 billion for federal lands and tribal transportation programs through fiscal year 2021.

Obligation ceiling: The bill establishes the following obligation limits for federal-aid highway and highway safety construction program spending from the HTF at: $40.9 billion in fiscal year 2016; $41.6 billion in fiscal year 2017; $42.5 billion in fiscal year 2018; $43.3 billion in fiscal year 2019; $44.2 billion in fiscal year 2020; and, $45.1 billion in fiscal year 2021. The bill retains MAP-21 provisions governing the distribution of obligation authority and the redistribution of unused obligation authority.[4]

Apportionment: The bill allocates apportioned funds among the National Highway Performance Program (NHPP), Surface Transportation Block Grant Program (STBGP), Highway Safety Improvement Program (HSIP), the Congestion Mitigation and Air Quality Improvement Program (CMAQ), and Metropolitan Planning and generally retains current apportionment formulas. However, the bill adds to each state's base apportionment supplemental funds for NHPP and STBGP. The bill also provides for the apportionment of funds among the states, retaining provisions that ensure that each state's combined apportionments are not less than 95 percent of the state's estimated tax payments into the Highway Trust Fund (other than the Mass Transit Account).[5]

Surface Transportation Block Grant Program: The bill converts the Surface Transportation Program to a block grant program, the Surface Transportation Block Grant Program (STBGP), providing states significant flexibility in how these funds may be obligated.[6]

Nationally Significant Freight and Highway Projects: The bill establishes a new competitive grant program to fund nationally significant: (1) freight projects on the Network; (2) highway and bridge

[1] See House Report 114-318 at 153.
[2] Id. at 153 to 155.
[3] Id. at 166.
[4] Id. at 166.
[5] Id. at 167.
[6] Id.

projects on the National Highway System; (3) freight rail or freight intermodal projects carried out on the National Multimodal Freight Network; and (4) railway-highway grade crossing or grade separation projects. For a project in a single state, projects will be required to have a project cost equal to or exceeding the lesser of $100 million or 30 percent of a state's apportioned funds for the most recent fiscal year. Multi-state projects will be required to have a project cost equal to or exceeding the lesser of $100 million or 50 percent of the apportioned funds of the participating state with the largest apportionment in the most recent fiscal year.[7]

Acceleration of Project Delivery: The bill contains numerous provisions to accelerate project delivery, including: creating a pilot program to allow states to use their own existing environmental laws and regulations instead of the National Environmental Policy Act; tracking the status of all projects undergoing environmental reviews; revising historic preservation laws for certain rail, transit, and bridge programs; and eliminating duplicative environmental reviews.[8]

Automated Traffic Enforcement: The bill prohibits the use of Federal-aid highway funds for automated traffic enforcement.[9]

Reserve Fund: The bill clarifies that funds authorized for fiscal years 2019 through 2021 are only available if there is a subsequent act of Congress. This bill also establishes a calculation to adjust the spending levels in the bill if receipts to the Highway Trust Fund are different from those estimated at the time of enactment.[10]

National electric vehicle charging, hydrogen, and natural gas fueling corridors: The bill requires the Secretary to designate electric vehicle charging, hydrogen, and natural gas fueling corridors across the Nation to identify the needs and most vital locations for such fueling and charging infrastructure. The corridors will be updated and redesignated every five years.[11]

Title II – Innovative Project Finance

Transportation Infrastructure Financing and Innovation Program: The bill makes changes to the Transportation Infrastructure Financing and Innovation (TIFIA) program, such as modifying the definition of a master credit agreement and a rural infrastructure project, establishing an eligible project cost for a local project, and providing federal funding for administrative expenses. The bill also limits when the Secretary can redistribute unobligated and uncommitted amounts of funding for the program.[12]

State Infrastructure Bank Program: The bill reauthorizes the State Infrastructure Bank Program, which is administered by the Federal Highway Administration (FHWA), for fiscal years 2016 through 2021.[13] State Infrastructure Banks (SIBs) are revolving infrastructure investment funds for surface transportation that are established and administered by states. SIBs give states the capacity to increase and make more efficient use of its transportation funds and significantly leverage federal resources by attracting non-federal public and private investment.

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[7] Id. at 168 and 169.
[8] Id. at 171 to 175.
[9] Id. at 176.
[10] Id.
[11] Id. at 177 and 178.
[12] Id. at 179.
[13] Id.

Title III – Public Transportation

Public transportation innovation: The bill consolidates Federal Transit Administration (FTA) research programs. This bill allows for consortia to apply for zero emission deployment grants in order to support the use of clean air buses. It also requires that annual reports on research be accessible to the public.[14]

Bicycle Facilities: The bill reduces the federal share for a project related to connecting bicycles with public transportation.[15]

General Provisions: The bill prohibits the use of federal funds to pay for the incremental cost of incorporating art or landscaping into facilities. This bill provides an increased federal share for the acquisition of a base-model bus and gradually increases Buy America domestic content in federally-funded rolling stock purchases.[16]

Public Transportation Safety Program: The bill amends the National Public Transportation Safety Plan to include minimum safety standards that take into account recommendations from the National Transportation Safety Board (NTSB), best practices developed by the industry, and any minimum standard or criteria developed by the public transportation industry. The bill also provides the Secretary with the authority to assume oversight activities when certain public transportation systems have demonstrated that they are incapable of doing so.[17]

Authorizations: The bill authorizes the following amounts from the Mass Transit Account of the HTF for public transportation formula grants: $8.7 billion in fiscal year 2016; $8.9 billion in fiscal year 2017; $9.1 billion in fiscal year 2018; $9.2 billion in fiscal year 2019; $9.4 billion in fiscal year 2020; and, $9.6 billion in fiscal year 2021.

Title IV – Highway Safety

Authorization: The bill authorizes the following amounts to be appropriated out of the HTF for highway safety programs: $260.3 million in fiscal year 2016; $265.9 million in fiscal year 2017; $271.8 million in fiscal year 2018; $278.1 million in fiscal year 2019; $284.9 million in fiscal year 2020; and, $291.2 million in fiscal year 2021. These levels are consistent with the CBO's baseline projections for the Highway Trust Fund.[18]

Highway Safety Programs: The bill encourages states to adopt programs to increase driver awareness of commercial motor vehicles (CMV) and how to operate safely around CMVs. It also makes data available on how states are following federal guidelines for automated red light and speed enforcement cameras and reduces administrative burdens on states by requiring the National Highway Transportation Safety Administration (NHTSA) to accept highway safety plans in electronic form.[19]

National Priority Safety Programs: The bill enables states to spend more funds on the pressing safety needs unique to their state by increasing the percentage of National Priority Safety Program

[14] Id. at 180.
[15] Id. at 181.
[16] Id.
[17] Id.
[18] Id. at 183.
[19] Id.

funds that can be flexed to each state's traditional safety program. This bill also reforms the Impaired Driving Countermeasures, Distracted Driving, and State Graduated Driver License Incentive programs to reduce barriers to state eligibility and improve incentives for states to adopt laws and regulations to improve highway safety.[20]

Marijuana-impaired driving: The bill requires the Secretary to conduct a study on marijuana impaired driving, including the feasibility of establishing an impairment standard for drivers under the influence of marijuana and provide recommendations.[21]

National Priority Safety Program Grant Eligibility: This bill requires NHTSA to release information on which states were awarded funds under the National Priority Safety Program and which states were determined to be ineligible. NHTSA is required to provide ineligible states a list of deficiencies to correct in order to ensure their eligibility in the future.[22]

Title V – Motor Carrier Safety

Grants to States: The bill consolidates nine existing Federal Motor Carrier Safety Administration (FMCSA) grant programs into four and streamlines program requirements to reduce administrative costs and improve flexibility for states. It makes several reforms to grant programs, including awarding priority to programs that train veterans and to incentivizing the adoption of innovative truck and bus safety technologies. These changes take effect in fiscal year 2017. This bill also authorizes funds for the consolidated grant programs for fiscal years 2017 through 2021 at levels consistent with the CBO's baseline projections for the Highway Trust Fund.[23]

Authorization: The bill authorizes $259 million for each of fiscal years 2016 through 2021 for the administrative expenses of the FMCSA, the same as fiscal year 2015 enacted levels.[24]

Extension of Federal Motor Carrier Safety Programs for fiscal year 2016: The bill authorizes fiscal year 2016 funding for FMCSA grant programs as these programs currently exist. Funding is provided at levels consistent with the CBO's baseline projections for the Highway Trust Fund.[25]

Minimum Financial Responsibility: The bill requires the Secretary to consider several factors prior to issuing a final rule that would change minimum insurance requirements for commercial trucks. It also requires the Secretary to conduct a study of current levels of minimum insurance for commercial buses prior to initiating a rulemaking that would change such levels.[26]

Title VI – Innovation

Authorization: The bill authorizes funds through fiscal year 2021 for the innovation and research activities overseen by the U.S. Department of Transportation (USDOT). The bill would authorize sums out of the Highway Account of the HTF for the Highway Research and Development Program, Technology and Innovation Deployment Program, training and education, Intelligent Transportation

[20] Id.
[21] Id. at 184.
[22] Id.
[23] Id. at 184.
[24] Id. at 185.
[25] Id.
[26] Id. at 188.

Systems (ITS) Program, University Transportation Centers (UTC), and the Bureau of Transportation Statistics.[27]

Innovation: The bill includes numerous provisions to: promote the deployment of transportation technologies and congestion management tools that support an efficient and safe surface transportation system; update federal research and transportation standards development to reflect the growth of technology in transportation; encourage the installation of vehicle-to-infrastructure equipment to reduce congestion and improve safety; and, accelerate the introduction of new technologies to improve truck and bus safety.

Title VII – Hazardous Materials Transportation

Authorization: The bill authorizes hazmat safety and grant programs for fiscal years 2016 through 2021 at baseline levels.[28]

Title VIII – Multimodal Freight Transportation

Multimodal freight transportation: The bill establishes a national multimodal freight policy with the goal of implementing policies, infrastructure improvements, and operational innovations that will improve the efficient movement of goods across all modes of transportation. The bill also establishes a national freight strategic plan and designates a National Multimodal Freight Network, including strategic highway, rail, port, inland waterway, and aviation assets.[29]

Title IX – National Surface Transportation and Innovative Finance Bureau

National Surface Transportation and Innovative Finance Bureau: The bill establishes the National Surface Transportation and Innovative Finance Bureau (Bureau) within the USDOT, which serves as a one-stop-shop for states and local governments to receive federal funding or financing assistance, as well as technical assistance, in order to move forward with complex surface transportation projects. This bill also directs the Bureau to administer the application process for various competitive grant programs and credit assistance programs; promote innovative financing best practices; reduce uncertainty and delays with environmental reviews and permitting; reduce costs and risks to taxpayers in project delivery and procurement; and carry out various multi-modal freight activities. The bill further gives the Secretary the authority to consolidate or eliminate different offices within USDOT.[30]

Title X – Sport Fish Restoration and Recreational Boating Safety

Allocations: The bill reauthorizes expenditure authority for the Dingell-Johnson Sport Fish Restoration Act through fiscal year 2021. It also combines Clean Vessel Act (CVA) Grants and Boating Infrastructure Grants (BIG) into a single Boating Infrastructure Improvement grant program. This consolidation reduces administrative costs and increases the states' flexibility in choosing

[27] Id. at 190.
[28] Id. at 192.
[29] Id. at 198.
[30] Id.

boating infrastructure projects without restricting the choices of projects types from which the states can choose.[31]

According to Chairman Shuster, H.R. 3763 will "improve our nation's infrastructure, reform our surface transportation programs, refocus these programs on national priorities, promote innovation to make our surface transportation system and programs work better, maintain a strong commitment to safety, provide greater flexibility for state and local governments to address their needs, streamline the federal bureaucracy and accelerate project delivery, and facilitate the flow of freight and commerce."[32]

For additional information, click here for a section-by-section summary of the bill, which can be found on pages 166 to 199 of House Report 114-318, and here for an information packet about H.R. 3763 provided by the Committee on Transportation and Infrastructure.

H.R. 22 (Senate amendment)

The Senate amendment to H.R. 22 authorizes federal surface transportation programs through fiscal year 2021, extends the programmatic and expenditure authority of the HTF, extends highway-related taxes that fund the HTF, transfers funds from Treasury's General Fund to the HTF, includes tax, fee, and revenue provisions, and reauthorizes the Export-Import Bank of the United States.

Select provisions of the Senate amendment to H.R. 22 include:

Extension of Highway Trust Fund expenditure authority: The bill extends the programmatic and expenditure authority of the HTF through October 1, 2021.

Extension of highway-related taxes: The bill extends the highway-related taxes that fund the HTF through September 30, 2023.

Additional Transfers to the Highway Trust Fund: The bill transfers $34.4 billion from Treasury's General Fund to the HTF's Highway Account and $11.2 billion to its Mass Transit Account. The bill also transfers certain motor vehicle safety penalties to the HTF.

Appropriation from Leaking Underground Storage Tank Trust Fund: The bill appropriates a total of $300 million from the Leaking Underground Storage Tank (LUST) Trust Fund to the Highway Account of the HTF. The bill authorizes the transfer of $100 million on the date of enactment, on October 1, 2016, and on October 1, 2017.

Pay-fors/Offsets: The bill includes several tax, fee, and receipt provisions to offset the bill's cost. These provisions include:[33]

> Section 52101: Requires estates with positive income tax liability to report the value of a piece of property upon the owner's death so that beneficiaries do not overstate the value of that property. This provision raises $1.542 billion over 10 years.

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[31] Id.

[32] See Press Release—"Shuster and Graves statements from markup of the Surface Transportation Reauthorization and Reform Act," October 22, 2015.

[33] See Senate Republican Policy Committee document—"H.R. 22 – Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act," July 23, 2015. (The estimated revenue raised by each provision provided by Senate Republican Policy Committee).

Section 52102: Allows the revocation of a passport or denial of a passport application if an individual has more than $50,000 in unpaid federal taxes. This provision would raise $398 million over 10 years.

Section 52103: Clarifies that the six-year statute of limitations applies in cases in which taxpayers overstate the cost (basis) of property and thereby indirectly understate their income. Cases in which taxpayers directly understate their income are already subject to a six-year statute of limitations. This provision raises $1.206 billion over 10 years.

Section 52104: Requires more mortgage information reporting to the IRS to reduce inaccuracies. This provision raises $1.806 billion over 10 years.

Section 52105: Changes the filing due dates for partnerships, S corporations and C corporations in order to improve compliance. This provision raises $285 million over 10 years.

Section 52106: Requires the IRS to use private debt collectors in attempting to receive unpaid taxes. This provision would raise $2.384 billion over 10 years.

Section 52107: Creates a special compliance personnel program account within the IRS to increase automated tax collections.

Section 52108: Extends through December 31, 2025, the ability of plan sponsors to use surplus pension assets to fund retiree health accounts and retiree life insurance, previously set to expire on December 31, 2021. Offset estimate: $172 million.

Section 52201: Extension of deposits of security service fees in the general fund. This provision would extend the deposit of TSA fees into the general fund by two years. Offset estimate: $3.5 billion.

Section 52202: Index customs user fees to inflation. This provision would index to inflation (CPI-U) the dollar amounts for various customs fees and thresholds. This provision would raise $4 billion over 10 years.

Section 52203: Dividends and Surplus Funds of Federal Reserve banks. This provision amends the Federal Reserve Act to lower the annual dividend paid to Federal Reserve banks from six percent of paid-in capital stock to one-and-a-half percent for banks with consolidated assets of $1 billion or more. Currently, a bank that is a member of the Federal Reserve system must subscribe to capital stock in the Federal Reserve bank of its district in an amount equal to six percent of its combined capital and surplus; three percent to be paid in and three percent subject to the call of the board of governors. Offset estimate: $16.3 billion.

Section 52204: Strategic Petroleum Reserve (SPR) drawdown and sale. This provision provides for drawdown and sale of 101 million barrels of crude oil from the Strategic Petroleum Reserve from fiscal years 2018 through 2025, representing 15 percent of current SPR crude oil stocks and raising $9.0 billion in offsets. The provision requires the drawdown and sale of four million barrels in fiscal year 2018; five million barrels in 2019; eight million barrels in 2020; eight million barrels in 2021; 10 million barrels in 2022; 16 million barrels in 2023; 25 million barrels in 2024; and 25 million barrels in 2025. Requires amounts received to be deposited in the general fund of the Treasury during the fiscal year in which the sale occurs.

In any one fiscal year, prohibits the drawdown and sale of crude oil in quantities that would result in an SPR that contains an inventory of petroleum products representing fewer than 90 days of emergency reserves, based on the average daily level of net imports of crude oil and petroleum products in the calendar year preceding that fiscal year.

Section 52205: Extension of enterprise guarantee fee. In December 2011, Congress raised the guarantee fees charged by Fannie Mae and Freddie Mac by 10 basis points. The proceeds of this increase are remitted to the Treasury. Set to expire in October 2021, the Senate highway bill extends this provision through October 2025. Offset estimate: $1.9 billion.

Export-Import Bank Reauthorization: The bill reauthorizes the Export-Import Bank of the United States through fiscal year fiscal year 2019. The provisions in the bill are identical to H.R. 597, *the Export-Import Bank Reform and Reauthorization Act of 2015*, which passed the House on October 27, 2015, by a vote of 313 to 118.

The bill also makes various changes to the Bank's charter, including:

Reduction in Authorized Outstanding Loans—The bill reduces the amount of outstanding loans, guarantees, and insurance the Bank is permitted to hold by $5 billion, from $140 billion to $135 billion, for fiscal years 2015 to 2019. The bill also provides provisions to reduce the Bank's lending if certain default rates exceed 2 percent.

Reserve Requirement—The bill requires the Bank to maintain a reserve, to protect against future losses, that is at least 5 percent of the aggregate amount of disbursed and outstanding loans, guarantees, and insurance held by the Bank. This provision will be effective one-year after enactment.

Independent Audit of the Bank's Portfolio—The bill requires the Inspector General of the Bank to conduct an audit or evaluation of the Bank's portfolio risk management procedures within one-year of enactment, and at least every three years thereafter.

Increased Lending to Small Business—The bill requires the Bank to increase amounts available for small business loans, guarantees, and insurance from 20 percent of its total loan authority to 25 percent.

Establishment of an Office of Ethics—The bill establishes an Office of Ethics to oversee all ethics issues within the Bank.

Risk Management Committee and Chief Risk Officer—The bill establishes a Chief Risk Officer and a Risk Management Committee to oversee all issues relating to risk within the Bank. The bill requires this entity to conduct periodic stress testing on the Bank's entire portfolio.

Reinsurance Pilot Program—The bill allows the Bank to conduct a pilot program through fiscal year 2019 to evaluate the usefulness of mitigating risk through reinsurance practices. The bill places limits on the pilot program and requires the Bank to submit an annual report to Congress on the program.

According to the Chairman of the Senate Committee on Commerce, Science, and Transportation, the bill "provides much-needed funding and reforms to address key infrastructure needs and improves safety across the country. This multi-year, bipartisan legislation will give states and local governments the ability to plan for and construct critical infrastructure projects. It will also help strengthen our nation's transportation system by increasing transparency in the allocation of transportation dollars, streamlining the permitting and environmental review processes, and cutting red tape."[34]

For more information, click here for a summary of the bill provided by the Senate Republican Policy Committee and here for a summary of the transportation provisions in the DRIVE Act provided by the Senate Committee on Commerce, Science, and Transportation.

Comparison of House (H.R. 3763)/Senate (H.R. 22) bills[35]

Major similarities:

- Both provide six-year authorizations but include only three years of full funding for the HTF.
- Both create new discretionary programs administered by the DOT.
- Both make major reductions in the amounts available to support leveraged funding under the Transportation Infrastructure Financing and Innovation Act, which provides loan and loan guarantees for large transportation infrastructure projects.
- Both retain much of the formula program structure for highways similar to current law and maintain the current program structure for public transportation.

Major differences:

- The House bill renames and modifies the Surface Transportation Program (the second-single largest source of highway funding) as a block-grant program, with conditions.
- The House bill does not include rail provisions, while the Senate bill authorizes increased funding for Amtrak and for grants to states for rail infrastructure and safety projects. (The House previously passed H.R. 749, *the Passenger Rail Reform and Investment Act of 2015*, which includes related provisions).
- The House bill includes a competitive grant program for freight and highway projects, while the Senate bill funds a new formula National Freight Program at $11.6 billion over the life of the bill.
- The House bill does not identify offsets for the transfers of funds from Treasury's General Fund to the HTF, while the Senate bill does, for the first three years.
- The House bill closely maintains the current division of funding between highway programs and public transportation programs. The Senate bill increases funding for public transportation at a faster rate than for highway funding.

BACKGROUND

Surface Transportation Reauthorization

The nation's surface transportation system is comprised of more than 4 million miles of public roads, 600,000 bridges, and 270,000 public transit route miles. In 2012, Americans traveled 4.3 trillion miles using highways and transit, using more than 250 million cars, trucks, and motorcycles. That year, 70

[34] See Press Release—"Commerce Committee Transportation Reforms Approved in Multi-Year Bill," July 30, 2015.
[35] See CRS INSIGHT—"House Transportation Bill Would Hold Spending Below Senate Bill," October 29, 2015, at 1 and 2.

percent of all freight in the United States—over 13 billion tons valued at more than $12 trillion—was moved by truck. Trucks are estimated to move 42 percent more freight by 2040.[36]

Surface transportation authorization acts "authorize spending on federal highway and public transportation programs, surface transportation safety and research, and certain rail programs."[37] Such bills typically deal with many programs and activities, and provide funding for state and local governments to undertake necessary and complex large-scale construction projects, construct and maintain roads and bridges, support and improve public transportation programs, ensure transportation safety, and provide for the safe and efficient transport of hazardous materials. Federal surface transportation programs are primarily funded through taxes on motor fuels that are deposited into the HTF.

Under current law, approximately 92 percent of funds are apportioned to the states by formulas established in law, and implementation is left primarily to state departments of transportation (state DOTs). States are required to provide matching funds for each project. The federal share is now 80% for non-Interstate system road projects and 90% for Interstate system projects. Generally, federal money can be spent only on designated federal-aid highways, which make up about a quarter of U.S. public roads.[38] The states "have nearly complete control over decision-making in regard to these funds, within limits of federal planning, eligibility, and oversight rules."[39]

The Federal-Aid Highway Program (FAHP) is an umbrella term used to describe separate highway programs administered by the Federal Highway Administration. These programs "are almost entirely focused on highway construction and generally do not support operations. Each state is required to have a Statewide Transportation Improvement Program, which sets priorities for the state's use of FAHP funds. State DOTs largely determine which projects are funded, let the contracts, and oversee project development and construction."[40]

Federal assistance for public transportation is provided to local transit agencies primarily through the public transportation program, which is administered by the Federal Transit Administration (FTA). The FTA administers six major programs: "(1) Urbanized Area Formula, accounting for 42% of the funding authorized; (2) State of Good Repair, 20%; (3) New Starts, 18%; (4) Rural Area Formula, 6%; (5) Bus and Bus Facilities Formula, 4%; and (6) Enhanced Mobility of Seniors and Individuals with Disabilities, 2%."[41]

Click here for a Congressional Research Service (CRS) report that discusses surface transportation reauthorization issues related to highways, public transportation, financing, rail, highway and motor carrier safety.

Highway Trust Fund

[36] See Committee on Transportation and Infrastructure document—"Surface Transportation Reauthorization and Reform Act of 2015," at 3.
[37] See CRS Report—"Surface Transportation Program Reauthorization Issues for Congress," September 11, 2015 at 1.
[38] Id. at 7.
[39] See CRS IN FOCUS—"Surface Transportation Funding and Infrastructure Challenges," August 11, 2015 at 1.
[40] See CRS Report at 7.
[41] Id. at 8.

Under current law, the federal government levies an excise tax of 18.4 cents per gallon on gasoline and 24.4 cents per gallon on diesel fuel.[42] Federal motor fuels excise tax collections are credited to the Highway Trust Fund (HTF), with the exception of 0.1 cent per-gallon of the fuel taxes deposited in the Leaking Underground Storage Tank (LUST) Trust Fund.[43] The HTF, the primary federal fund for surface transportation, is divided into two accounts: the highway account, and the mass transit account.[44]

Fuel taxes have historically provided approximately 90 percent of the receipts to the HTF.[45] In recent years, tax collections have not kept pace with spending on federally-funded transportation projects due to the effect of inflation on both project costs and the real value of non-indexed tax rates; reductions in vehicle miles traveled; and improved corporate average fuel economy (CAFE) standards.[46] These developments have imperiled the sustainability of the Fund.

In 2012, President Obama signed into law H.R. 4348 (Public Law 112-141), the Moving Ahead for Progress in the 21st Century Act, or MAP-21. MAP-21 authorized federal surface transportation programs through September 30, 2014 and tax collection authority through September 30, 2016. To offset the cost of reauthorization, the bill transferred $18.8 billion for fiscal years 2013 and 2014 from Treasury's General Fund to the HTF, and $2.4 billion from the LUST Trust Fund to the HTF.

In the 113th Congress, the House passed legislation (H.R. 5021) that extended the programmatic authority and expenditure authority of the HTF through May 31, 2015. Additionally, H.R. 5021 transferred $7.8 billion from Treasury's General Fund to the Highway Account of the HTF and $2 billion to its Mass Transit Account. H.R. 5021 also transferred $1 billion in gas-tax-funded monies in the LUST Trust Fund to the HTF. The House approved H.R. 5021 by a vote of 367 to 55 on July 15, 2014. The bill was enacted into law on August 8, 2014. (Public Law 113-159).

In the 114th Congress, the House passed H.R. 2353, *the Highway and Transportation Funding Act of 2015*, by a vote of 387 to 35 on May 19, 2015. The bill, which extended the programmatic and expenditure authority of the HTF through July 31, 2015, was signed into law on May 29, 2015. (Public Law 114-21). The bill did not transfer any money from Treasury's General Fund because the HTF had sufficient resources to fund its obligations through that period.

On July 15, 2015, the House passed H.R. 3038, *the Highway and Transportation Funding Act of 2015, Part II*, by a vote of 312 to 119. The bill would extend the programmatic and expenditure authority of the Highway Trust Fund (HTF) through December 18, 2015, and transfer approximately $6.1 billion from Treasury's General Fund to the HTF's Highway Account and $2 billion to its Mass Transit Account. To date, the Senate has not acted on H.R. 3038.

On July 29, 2015, the House passed H.R. 3236, *the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*, by a vote of 385 to 34. The bill, which became law on July 31, 2015, extended the programmatic and expenditure authority of the HTF through October 29,

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[42] See CRS Report—"The Federal Excise Tax on Motor Fuels and the Highway Trust Fund: Current Law and Legislative History," June 12, 2015 at 1.

[43] Id.

[44] Id.

[45] U.S. Government Accountability Office, Highway Trust Fund: Options for Improving Sustainability and Mechanisms to Manage Solvency, GAO-09-845T, June 25, 2009, p. 4, at http://www.gao.gov/new.items/d09845t.pdf ; and CRS Report R42877, Funding and Financing Highways and Public Transportation, by Robert S. Kirk and William J. Mallett.

[46] See CRS Report at 2.

2015. The law transferred approximately $6.1 billion from Treasury's General Fund to the HTF's Highway Account and $2 billion to its Mass Transit Account.

On October 27, 2015, the House passed H.R. 3819, *the Surface Transportation Extension Act of 2015*, by voice vote. The bill extends the programmatic and expenditure authority of the Highway Trust Fund (HTF) through November 20, 2015.

Since 2008, Congress has prevented projected HTF shortfalls by transferring approximately $71 billion from Treasury's General Fund to the HTF to prevent lapses in funding that would impact reimbursements to states.[47] According to CBO, during fiscal year 2016, "revenues credited to the highway and transit accounts of the Highway Trust Fund will be insufficient to meet the fund's obligations."[48] CBO projects that, under current law, "the highway account will have a shortfall of $1 billion in 2016; by 2025, the cumulative shortfall will grow to $108 billion."[49] CBO also estimates that "the transit account will have a shortfall of less than $1 billion in 2016, growing to a cumulative shortfall of $40 billion by 2025."[50]

Export-Import Bank

The Export-Import Bank of the United States (Bank) is a Corporation owned by the United States Government that is designed to assist in the financing of U.S. exports of goods and services to support U.S. employment. The Bank is intended to provide financing to certain entities when the private sector is unwilling or unable to undertake such financing; or to meet foreign competition by countering government-backed financing offered by other countries to their companies.[51] The Bank's charter expired on July 1, 2015. Since that time the Bank has issued no new loan, guarantee, or insurance commitments, but has continued administering and servicing existing obligations.[52]

The Bank's charter stipulates that its financing must have a "reasonable assurance of repayment" and should supplement, and not compete with, private capital, among other requirements. In fiscal year 2014, the Bank reported authorizing approximately $20.5 billion for 3,746 transactions of finance and insurance, to support an estimated $27.5 billion in U.S. exports and approximately 164,000 U.S. jobs. Its overall outstanding portfolio was $112 billion—below the $140 billion statutory cap for that year.[53]

On October 27, 2015, the House passed H.R. 597, *the Export-Import Bank Reform and Reauthorization Act of 2015*, by a vote of 313 to 118. The bill reauthorizes the Bank through fiscal year 2019 and makes various changes to its charter.

COST

H.R. 22 (Senate amendments)

[47] See CRS Report—"The Federal Excise Tax on Motor Fuels and the Highway Trust Fund: Current Law and Legislative History," August 12, 2015 at 5.
[48] See CBO—"Estimates of the Status of the Highway Trust Fund Based on CBO's August 2015 Baseline," October 21, 2015.
[49] Id.
[50] Id.
[51] See CRS Report—"Export-Import Bank: Overview and Reauthorization Issues," March 25, 2015.
[52] See CRS Report—"Export-Import Bank Reauthorization: Frequently Asked Questions," July 15, 2015.
[53] See CRS Report—"Export-Import Bank: Overview and Reauthorization Issues," March 25, 2015.

CBO estimates that enacting the Senate amendments to H.R. 22 would result in discretionary outlays totaling an estimated $319 billion over the 2016 to 2025 period. CBO also estimates that the bill would make changes in direct spending and revenues that would reduce deficits by $45 billion over that period.

H.R. 3763 (Rules Committee Print)

CBO estimates that the Rules Committee Print to H.R. 3763 would result in discretionary outlays totaling an estimated $156 billion over the fiscal year 2016 to 2025 period. CBO also estimates that the bill would make changes in direct spending and revenues that would reduce deficits by $17 million over that period.

Click here for a Congressional Research Service report comparing spending in the House and Senate bills relative to CBO's baseline.

STAFF CONTACT

For questions or further information please contact Jerry White with the House Republican Policy Committee.